

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

RUTH SMITH, Individually and as Widow for the	)	
Use and Benefit of Herself and the Next Kin of	)	
Richard Smith, Deceased,	)	
	)	
Plaintiff,	)	Civil No. 3:05-0444
	)	Judge Aleta A. Trauger
v.	)	(Dist. Of MA No.
	)	1:05-cv-11515PBS)
PFIZER, INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF DEFENDANTS’  
EMERGENCY MOTION FOR CONTINUANCE OF TRIAL**

Defendants Pfizer Inc and Warner-Lambert Company LLC (collectively, “Defendants” or “Pfizer”), respectfully submit this memorandum in support of their emergency motion for a continuance of trial. As the Court is well-aware, the Middle Tennessee area recently experienced an unprecedented amount of rainfall this past weekend, which led to flooding and a subsequent rise in the Cumberland River. This inclement weather and resulting flooding also caused disruptions in utilities and roadways.<sup>1</sup> The downtown Nashville area, in particular, has been affected by flooding and power outages. Meanwhile, this case is set to begin trial one week from today on May 11, 2010. (Order Setting Case for Trial [38] at ¶ 1.)

The power outages and other utility disruptions have, and will continue to, adversely impact Defendants’ ability to prepare for trial. Specifically, the offices of Defendants’ lead trial counsel, which are located in downtown Nashville, have lost electricity, and at the earliest,

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<sup>1</sup> See *The Tennessean*, “Flooding overwhelms Middle Tennessee,” (May 3, 2010) available at <http://www.tennessean.com/article/20100503/NEWS/100503029/Flooding+overwhelms+Middle+Tennes> see (last visited May 4, 2010).

power will not be restored until Friday May 7, 2010 or very possibly not until later into the weekend.<sup>2</sup> (See Declaration of Aubrey B. Harwell.) This office building also is the location of the trial office space obtained by the entire defense trial team. It has been shut down today with no access allowed until power is restored. In addition to being barred from these offices, trial counsel will have no access to their work computers, computer servers, work e-mail, or office telephones from either the office or remotely from home. Without such access, the trial office space is not operational and trial counsel will be unable to meet the deadlines set by the Court and prepare for trial in the final, critical week before trial.

For all of the foregoing reasons, Defendants respectfully requests the Court grant its emergency motion for a continuance. It is Defendants' position that extending the start date of trial for two weeks would mitigate the disruptive effects of the storm on its ability to prepare for trial without causing any undue prejudice to plaintiff. This is especially the case here given that trial is scheduled for only three (3) days during the week of May 10, 2010. Thus, Defendants request that the trial be reset for May 24, 2010.

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<sup>2</sup> See *The Tennessean*, "Bridgestone Arena, Hall of Fame among those without power," (May 4, 2010) ("A large portion of downtown is without power until at least Friday . . ."), available at <http://www.tennessean.com/article/20100504/NEWS/100504009/UPDATED++Bridgestone+Arena++Hall+of+Fame+among+those+without+power+> (last visited May 4, 2010).

Dated: May 4, 2010

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 4<sup>th</sup> day of May 2010, I electronically filed the foregoing document with the Clerk of the Court, United States District Court for the Middle District of Tennessee, using the CM/ECF system. True and correct copies of the foregoing documents are being served via the Court's CM/ECF system on the following:

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